

COMMITTEE ON HUMAN RESOURCES/INSURANCE

February 18, 2004

7:30 PM

Chairman Shea called the meeting to order.

The Clerk called the roll.

Present: Aldermen Shea, Sysyn, DeVries (late), Garrity, Forest

Messrs.: S. Tellier, V. Lamberton, F. Rusczek, Deputy Solicitor Arnold,
M. Roche

Chairman Shea advised that the first purpose of the meeting is organizational in nature, and requests the Clerk to provide a brief overview regarding typical issues addressed by the Committee.

Deputy Clerk Johnson stated the Clerk would advise that under Item 3 in your agenda package we did give you a description of the Committee, which basically states that you have policy jurisdiction over personnel matters and you can just review that at your leisure.

Chairman Shea addressed Item 4 of the agenda:

Communication from Alderman Lopez requesting that the Mayor be given the responsibility of evaluating all appointed officers of the City to avoid a potential conflict of interest on the part of the department head in the Assessor's Office.

Alderman Forest moved the item for discussion. Alderman Sysyn duly seconded the motion.

Alderman Forest stated in reference to this I think Alderman Lopez quoted the Charter, which is 6.06 I believe in reference to this and I think if he refers to 6.07 the department head can normally do the evaluation. I don't know if we would be able to do this. I think we are setting a precedent by having the Mayor do this.

Alderman Sysyn stated I agree with Alderman Forest. I don't think it is right. Would you do this to Frank Thomas or anybody else?

Alderman DeVries stated I apologize for being late. I just left another meeting to be here. I don't know that I agree because I think this is an unusual situation that does have three equal individuals and I would have to assume that the conflict of interest brought to point here is that it is very difficult for one individual to really weigh in on somebody who is 100% here. I do think we should take a look at this and come back with a better way to address that. I would be in favor of pursuing this

Alderman Lopez stated under Section 3.07 of the City Charter it says "the appointed officers of the City." I think it is very important because that is where the continuity happens with the City Clerk, Finance Officer and the Assessors. When I was on the Charter Commission and doing all of this and making officers of the City I thought it was very important that the continuity be there and the officers of the City be responsible to the Board of Mayor and Aldermen. I think in the past we have seen that where some officers have come before the Board and explained that is going on. I think all I am trying to do here...I don't consider it the same category as an officer in the Department of Assessors was made a department head for the daily operations but when they meet as a Board for abatements they are all equal in making their presentations on the assessments of the City of Manchester. I think there is room for conflict of interest when equal partners such as the other two Assessors knowing that they are going to be evaluated by the department head on anything that they do and that is the reason I am bringing this to your attention. I hope that you take a really good look at this because it is not to demean the department head in that department because there is no way that I would do that but I think in order to get a true disagreement...for example if one Assessor did disagree he could be persuaded knowing that that individual was evaluating him for a merit increase, step increase or whatever you want to call it and that could influence the assessments in the City of Manchester. So I think there is some merit to move forward with this or study it or have the HR Director review it and give her opinion.

Alderman Garrity asked, Alderman Lopez, was this discussed at the Charter Commission level at all because I think that is where it probably belongs.

Alderman Lopez responded to answer your question I don't think we ever really thought for one minute that the officers of the City would be rated...we thought they would be rated by the CEO. I think it was missed in the sense that if you say officer of the City like the City Clerk the Mayor does rate him and the Finance Officer also. It came down to these three and I think when the confusion came to try to clear it up is one of the Assessors will be named the department head and shall be the Chairman of that Board but knowing that I would have to be evaluated as an Assessor by that department head could influence a decision that could be very detrimental to the City.

Chairman Shea asked Mr. Tellier would you like to come forward to speak.

Mr. Steve Tellier stated with respect to a lot of the comments...I will go through them. My understanding from the Charter revision is previous to this Charter the Board of Assessors was the department head. It allocated a department head status to all three individuals. In my understanding of the spirit and intent of the Charter change it was to direct one to active Chairman in matters of budgetary consideration, staffing and kind of give one single spokesperson and some direction while still retaining the ability and responsibilities and duties under state law and City ordinances as to expediting and fulfilling the responsibilities and duties. Anybody who takes that oath of office has to uphold assessing standards. We have adopted CNHA designations and Department of Revenue Administration designations that mandate that the decisions regarding taxable value are done purely on merit without regard to outside influence and I think that has been demonstrated time and time again so I don't agree with the merit of that argument. Furthermore, if you are going to delegate the CEO to review those individuals then it is likely that you should return them all to City officer and department head status so that they are equal. Furthermore, we have identified them as the Commercial Assessor, Residential Assessor and Chairman of the Board. I can assure you that in all reviews that I have conducted for my staff it has all been on merit and performance and on future improvement of ones self while allowing for constructive criticism both ways as well. I respectfully disagree with Alderman Lopez. We have had this discussion and I understand his position and I recognize that there is some merit in his argument but I think that there is more merit in preserving the status quo. I think it works well. I am a fan of if something isn't broken don't fix it and I think this may have the potential of injecting a political side to it. You talked briefly about having a possible conflict of interest. Well right now the department head answers to the CEO but the other two answer to the Chairman. This prevents politics from being involved in any way if an individual incurs the wrath of the Mayor's Office because they may or may not agree or vote a certain way or come to a certain ideal of thought. So, I just don't think that politics are involved in the present system and I think that it works quite well.

Chairman Shea asked how long have you been evaluated by the Mayor.

Mr. Tellier answered I am evaluated annually by the Mayor.

Chairman Shea asked and how many years has that been done.

Mr. Tellier answered since Yarger Decker was evaluated.

Chairman Shea asked so you are evaluated each year by the Mayor and you in turn evaluate the other two.

Mr. Tellier answered yes and I might add as an example if you look at the Finance Department the Deputy Finance Officer in the City of Manchester wields a significant amount of authority, responsibility and duties and the Finance Officer evaluates his deputy.

Alderman DeVries asked, Mr. Tellier, would you agree that it would be difficult if you had three departments heads to be evaluating each other as far as performance evaluations.

Mr. Tellier answered certainly.

Alderman DeVries stated I just don't understand. How can you say that this is so much different as far as a performance evaluation? How is this different than if we were trying to ask three department heads to weigh in on each other?

Mr. Tellier responded the only thing that I brought up is there was a Chairman under the previous Charter but the three individuals were all regarded at department head status and I certainly understood the Charter Commission's idea of defining one fixed person to act as spokesperson and to provide for the responsibilities of the Board as an individual. I am just bringing up past processes and what was accomplished to improve that.

Alderman DeVries replied I understand that and I certainly agree that we have designated one individual who is responsible for running that department as far as weighing in on the performance of the individuals that you are responsible for. I guess what I am saying is where your two colleagues and you are of equal status – you are three equal City officials that it would be very difficult for you to weigh in on the other two equal officials just like it would be difficult for any department head to have to be responsible for weighing in on another department head. That is why I believe that a conflict of interest is apparent and why we need to have a separate individual, the CEO, weighing in for the performance evaluation. I just don't see that that can be done fairly by yourself and objectively.

Mr. Tellier responded I don't agree with that position. I think I can act and have acted in an objective manner. I think the system works quite well. The Board of Assessors as an entity appears often and collaborates with the Office of the Mayor or will work with Aldermen on high profile issues but yet as a general rule the Chairman acts as that spokesperson for it and I can state with a great deal of conviction that the present system works quite well. The Board of Assessors is operating very well. There is a lot of communication and self-improvement and

we are continually striving to do that. I don't think it is a conflict of interest and I don't have a problem challenging a colleague if I feel that he or she would merit increased performance or situations that would need enhancement. I really don't have a problem with that.

Chairman Shea asked when you are evaluated by the Mayor he uses a certain criteria to evaluate you. Do you use the same criteria to evaluate the members of your staff?

Mr. Tellier answered yes. There is a form and Ginny Lamberton can attest to this with more certainty than I but there is a general form for supervisory personnel and there is a form for administrative personnel and we all use the same supervisory form whether you are a department head or a foreman of a gang of 12 I believe.

Alderman Forest stated I want to go back to the City Charter here. Section 3.07 Appointed City Officers and I am referring to Item B which says, "the Board of Assessors shall consist of three full-time members and shall continue to act in its current capacity as a Board of Appeals for abatements unless nine members of the Board of Aldermen vote to reorganize the Assessor's Office." Section 3.04 which is the authority, again under Item B says, "The department head shall have exclusive personnel authority within the department. All appointments and promotions will be made solely on the basis of merit and only after appropriate examination and review of application." There is another couple of sentences but what I am trying to say is Steve here is no different than any other department head. He was appointed a department head. He has the authority to hire and fire just like any other department head and if you are using the fact that he can't do his job, you are looking at all of the other department heads or assistant department heads. He is in the same position and I don't think we should be pointing the finger at him and saying he can't do his job.

Alderman DeVries stated that is exactly where I don't agree because in this case we have three officials, appointed officials, that report to the Board of Mayor and Aldermen that this department head does not have the authority to fire. That is a function that belongs to the Board of Mayor and Aldermen and because of that I feel that the only fair assessment that can be done is by the Mayor or the Mayor and Aldermen. We have designated the Mayor to do our assessments of the rest of the appointed officials, i.e. the department heads. These are three department heads working in one office and it should be the same process that we follow in the rest of our departments. The CEO should be the individual that is weighing in on their performance evaluation.

Alderman Sysyn stated I don't work in his department so I don't feel that I would be qualified to fire anybody in that department. I don't know what they do there and if I did I would apply for a job. I am not running that department and I think it is discriminating to say that Steve is incapable of overseeing his department.

Alderman DeVries responded I don't think that is what I am saying. I am not saying that he is not capable of running that department. I am saying that we have three individuals that report to the Board of Mayor and Aldermen and in this case I think it is a conflict to ask one of those appointed officials to be weighing in on the other two when they in turn are not of equal status to the rest of the employees that he is overseeing. The rest of the employees he has the ability to fire or to promote or to assess and guide their performance. The CEO is the one that would, the Mayor is the one who oversees the rest of our department heads and he has been given that responsibility to guide their performance or to weigh-in on their performance and that is something that we as Aldermen have given to the Mayor through adopting the Charter. My point is that the Mayor needs to look at these three individuals as if they were three department heads and weigh in on that.

Mr. Tellier stated just to bring your attention to a check and balance that exists here that does not exist anywhere else is that this Board of Aldermen in appointing the City Officers also has the ability to disenfranchise them...to take that appointment away in the event of negligence of duties or whatever the case may be. This Board does not have that ability with deputies in any other department so there are checks and balances already in place.

Alderman Lopez stated I don't want to make a federal case out of this but the concept of the officers of the City is that they have to be free and willing to give the Board of Mayor and Aldermen their best judgement period. That is the reason I fought to have three officers in the Assessors Office because it is critical to have Assessors. In many occasions and even in testimony you have stated that all of you are equal. A person that is equal doesn't rate the other two and that is what I am talking about. It is not taking authority away from running the office or the other personnel. It is not taking authority away from one person taking care of the commercial and one person taking care of the residential, etc. Under the fiduciary responsibility of the Assessors it comes under state statute. The appointment that we just went through to hire an Assessor was done by the Board of Mayor and Aldermen, not the department head. You cite deputies. Department heads take care of their deputies. We don't hire deputies. Department heads do. The Assessors we do appoint and we do hire. We just went through a complete procedure last year and it has nothing to do with taking anything away from you. I believe and I strongly believe as I did on the Charter Commission that officers of the City are the continuity and the hearth of the City and I believe that they owe

that to the 14 Aldermen that sit here to make sure that there is nothing interfering with that.

Alderman Garrity stated I am reading Section 3.07 and the Board of Assessors are appointed by the Aldermen. Nowhere in there does it say the Board of Mayor and Aldermen so I don't think it is proper that the Mayor have the authority that you have in your memo here. They are appointed by the Aldermen, not the Board of Mayor and Aldermen. They work for the Aldermen, not the Mayor. They are appointed by the Aldermen. Nowhere in there does it say the Mayor.

Alderman Garrity moved to receive and file. Alderman Sysyn duly seconded the motion. Chairman Shea called for a vote. The motion carried with Alderman DeVries being duly recorded in opposition.

Chairman Shea addressed Item 5 of the agenda:

Highway and Water Works request to update two class specifications –
Laboratory Technician I and WWTP Operator.

On motion of Alderman Forest, duly seconded by Alderman Sysyn it was voted to approve the class specifications.

Chairman Shea addressed Item 6 of the agenda:

Communication from Commissioner Martineau requesting a
reclassification of an Administrative Services Manager I, salary grade 16 to
Administrative Services Manager II, salary grade 18.

Alderman Garrity moved to receive and file. Alderman Forest duly seconded the motion.

Alderman DeVries stated I have a comment to make before we vote on this. It is not this item that I want to bring up but what I would like to have this Committee take a look at is what I believe is missing today. We did put a freeze on what I believe is called the special merit raises and that was a couple of years ago. I think that we have...it is time that this Committee reexamine that process to see if there are circumstances when we want to award a special merit increase. The freeze was put on that because there was abuse. Without a doubt we need to rework that particular ordinance. I guess at this point I would ask that the Committee entertain a motion to ask the HR Director to come back to the Committee with that particular ordinance so that we can take it up with any changes that she might be recommending.

Chairman Shea called for a vote on the motion to receive and file. There being none opposed, the motion carried.

Chairman Shea asked is there a second to Alderman DeVries' motion.

Alderman DeVries stated as I said I think we should ask the HR Director and I don't know if she wants to weigh in on this tonight but to come back to this Committee with a proposal for how we should look at the special merit increase so that it can meet the initial intent of that ordinance.

Ms. Virginia Lamberton stated the special merit ordinance was actually eliminated and what that meant is that an employee could move two steps rather than one step. I think what you are talking about is the bonus system and that was established with Yarger Decker and it is a performance evaluation that had numerical values for everything and if someone was rated at a level 7 they got a bonus 3% in one lump sum. Incidental to your thoughts the Quality Council has been talking about perhaps going to a different type of bonus system that has nothing to do with performance evaluations but rather when an employee does something that saves money or does something more efficiently and the department head substantiates it, it would go to the full Board and that person would receive a monetary bonus like \$50 or \$100 or something like that.

Alderman DeVries responded that would certainly be appropriate to get feedback from the Quality Council and bring forward some suggestions to this Committee so that we could go forward with this.

On motion of Alderman DeVries, duly seconded by Alderman Forest it was voted to have the HR Director come back to the Committee with a recommendation for an employee bonus system.

Chairman Shea addressed Item 7 of the agenda:

Health Department request to reclassify two Public Health Translator positions, salary grade 12, to Public Health Specialists, salary grade 16.

Alderman DeVries moved the item for discussion. Alderman Forest duly seconded the motion.

Mr. Fred Ruscsek stated back in October we received funding to hire a Disease Intervention Specialist to primarily do work investigating sexually transmitted diseases and folks that may be at risk for HIV infection. About the same time this was occurring so in other words we have funds for an entirely new position but we had been developing for a few years two of our Public Health Translators. One of

them has already done a lot of HIV and STD work and in fact he works at every one of our clinics and works in the county jail and works with high risk folks with tuberculosis and other diseases so we have a person who is trained. We also have another Public Health Translator who started out in America as a Bosnian refugee after studying health in Bosnia who over the years we have trained to be able to competently handle tuberculosis follow-up and in fact does complete tuberculosis home visits on nights and weekends today. We have not had a Saturday or Sunday or holiday since last April where we have not had a Community Health Nurse or someone going out to follow-up on a tuberculosis case. We have to do direct observe therapy. So when we saw this money we said do we want to just come back to the City and say we have money should we hire a new position or should we say well we have moved these folks along and we have an opportunity to utilize their skills and they have all been trained in respiratory protections and in the process we are able to affectuate a modest cost savings for the City by not creating a new position and because we now have this money to offset some of the City costs that go for the position. These are two folks who are trained, skilled and competent. Hiring a Medical Director with the public health preparedness money last year gives them direct access to medical background and I really believe this is the most effective way of getting the work done. It also solves what is going to be a recurring theme for awhile and that is that we are not going to find nurses to work for the Health Department as we have in the past. They are just not out there, people are retiring and people aren't entering the field and even though the City has market wages for the public sector for nursing, that being said we still have a tough time competing with the hospitals and the healthcare providers that are offering so much today. This helps us move towards utilizing non-nurses who have the skills and competencies to do a lot of the work we need to do in disease follow-up.

Alderman Garrity asked is this grant funding.

Mr. Rusczek answered yes.

Alderman Garrity asked what is the length of the grant.

Mr. Rusczek answered this is federal money that goes through the state for disease investigation. I don't see this grant going away for quite awhile but Alderman one of the things we have had to do through the years in the Health Department and that is why we are always back here because if a grant runs out we work to get funding elsewhere but pretty much through the years my experience has been that the disease investigation grants and the public health preparedness grants don't go away. The needs in the country are just continuing to increase and there is a greater recognition that we need to control some of these and be prepared for things. These I am not really worrying about disappearing even in five years.

Alderman Garrity stated you say we offer market rate for nurses. What are we not doing that the hospitals are doing? I think we have a pretty good health plan and benefits. What separates us from what the hospitals are offering that we can't?

Mr. Rusczek responded we offer market wages compared to other public sector employees. We have done a very good job of retaining our nurses. If you go back to 1992 in one year we lost 45% of our school nurses and the year before that it was 30% and the year after that it was about 40%. Alderman Shea may remember the revolving door through the schools. We put in a career development plan there that put out some carrots where a school nurse or a community health nurse can move to a certified community health nurse and take on more responsibility for a one-step increase. That has been very helpful. The other thing that has helped us to retain staff is the fact that we just happen to...probably because Manchester is the largest City in the state we happen to attract some very qualified, competent folks who enjoy working with one another. Once we get them in the door we can retain them now but if you are looking for comparable pays to a hospital setting in any public sector position, it is just not there. What hospitals are doing is they have opportunities to move up through lots of nurse manager positions and stuff and in return they give up their nights, weekends and holidays even more than our folks do. Alderman, I don't know if we can ever compete with the hospitals because if we got to hospital wages today and we were there with Yarger Decker, then as the nurses are leaving the field the hospital's wages are just inching up. We are doing our very best to retain what we have.

Alderman Garrity asked if the grant were to end tomorrow what is the fiscal impact.

Mr. Rusczek answered the fiscal impact because there is a modest cost savings is probably around \$25,000. I wish I could give you an exact amount but in these positions today there is outside money blended in.

On motion of Alderman DeVries, duly seconded by Alderman Sysyn, it was voted to approve the request to reclassify two Public Health Translator positions, salary grade 12 to Public Health Specialists, salary grade 16.

Chairman Shea addressed Item 8 of the agenda:

Communication from Virginia Lamberton, Human Resources Director, submitting proposed language to Section 33.081 Sick Leave to allow school department employees hired by city departments to transfer accrued sick leave benefits.

Alderman Forest moved the item for discussion. Alderman DeVries duly seconded the motion.

Alderman Forest asked could Ginny explain what this is going to do.

Ms. Lamberton stated this is something that I passed out because I believe it is a policy decision. Prior to the School District filing its lawsuit to be separate from the City, if you worked at the school you were considered an employee of that department. Consequently when the employees “transferred” over to another department of the City, the leave time and all the other seniority, etc. all moved with them. We recently had an employee be selected for a position in a department and her expectation based on what she heard was that her sick leave would come with her. However, she is considered a new employee and has a new seniority date and is probationary, etc. I had many, many discussions with that department about this because personally I just didn’t think it was appropriate to give the sick leave because I figured it was sending mixed signals. You are either transferring over in whole or you are not. In other words you coming over as a regular permanent employee and bringing all of your time with you and all of your seniority with you or you are not. Well the employees that are in question right now didn’t have a problem with the seniority or probationary issue, just the sick leave. I figured that the best place for this to go...it is a policy decision, was back to the Board.

Alderman Forest asked so if we have an employee that works for Mr. Ludwell you are saying that that person would transfer to another department other than the School department.

Ms. Lamberton answered that is the key here. The School District is not considered a department at this time. It is a separate, distinct entity and I am not even sure any more of the status of the lawsuit. Nonetheless they are really not transferring over because we are hiring them as a new City employee.

Alderman Forest asked you are rehiring them.

Ms. Lamberton answered no we are not rehiring them. We are hiring them as a City employee in a City department so they are establishing a new seniority date and a new longevity date, probationary period, etc.

Alderman DeVries stated I guess one concern that I have with this is worse case scenario if an individual transferred into a City department in their last year of eligibility for retirement meaning that they would only be employed in a department for one year, that individual department then in their budget would become responsible for the cost of vesting that individual out for their entire

length of employment and I just don't know that that is a negative but it could be cumbersome if it was a trend.

Ms. Lamberton responded frankly I could argue this either way. I mean let's say you have an individual come over and become a City employee and they have 50 days of sick leave that they accrued at the school system and they break their toe and can't come to work for six months. That department is now stuck with somebody who is not able to come to work who never accrued time on that department's clock. However, if we are trying to work with the School and say we are all one then the time should come with them. That is why I figured that I would let you make that decision.

Alderman DeVries stated I wonder if somebody did retire from the School system and vested out with not 100% use of their accrued sick time and then started working for the City the next day if we even entertain this shouldn't we also allow that individual to carry those unused days meaning and I don't know their retirement system but on the City side they max out at 120 days and say if they are carrying 140 days on the book those 20 days that they are not being paid for should carry over into the City system if we even entertain this. Would you agree?

Ms. Lamberton answered no.

Alderman DeVries asked why.

Ms. Lamberton responded the answer is no because that is not what happens.

Alderman DeVries replied I understand that that is not what happens now but I am saying that if we even entertain this as a policy change we probably should consider that component as well to be fair.

Ms. Lamberton stated Alderman DeVries is referring to our employees in the Fire and Police Department who retire out of the state system and they get paid their sick leave up to a certain amount and then we do have some people who have gotten that from the City retirement system which is okay because they are allowed to do that but they have not been able to take the sick leave that they weren't paid out and have it credited to a new job.

Alderman DeVries stated it becomes a complicated issue I guess is where I was headed with it.

Chairman Shea responded I recall that case and a precedence was set.

Ms. Lamberton stated I think they worked in Human Resources.

Alderman Forest asked are we going to be required to do this.

Ms. Lamberton answered no. I have just been going around and around with the department and it is like...one of the things that Tom Clark told me when I first came here was if there is not an ordinance that authorizes it you can't do it. So I can't find any ordinance that authorizes a person that is hired from the School District to bring sick leave with them so I am not going to do that unless there is something that authorizes that.

Alderman Garrity asked this just has to do with the sick time right.

Ms. Lamberton answered correct.

Alderman Garrity asked when a School District employee leaves the School District do they get paid their sick time.

Ms. Lamberton responded I really couldn't answer that question. Maybe if they retire. It depends on their collective bargaining agreement. They don't come under our Human Resources ordinances either.

Alderman Forest stated the concern that I have is again switching from one job to another. I think if I understand it that is what you are saying. Could we give you authority to do this on a case by case basis? I don't really want to do a blanket on this because I think this scares me as far as...again we have new jobs in the Police Department where a policeman retires and then the next day they work for the Police Department and I really don't want to start a precedent where all of the left over sick leave or whatever is going to be carried over. I think that is going to be an impact as far as cost to the City.

Ms. Lamberton responded this ordinance does not address that or propose that. This does not. This is just simply a person coming from the School system.

Chairman Shea asked what is your recommendation.

Ms. Lamberton answered I have very mixed feelings about this. I think it becomes confusing if I was a person transferring from the School or if I had been hired from the School system to a City department and I was told that I could have my sick leave but I was probationary and I had a new seniority date and a new longevity date. I would find that inconsistent and a little confusing. My goal here today is to have us be consistent and not do it on a case by case basis because I don't see where you ever could compare. It is either if you come from the School

to the City you can carry your sick leave or you don't get to carry it. One way or the other but everybody should be treated the same.

Chairman Shea stated the fly in the ointment if I may is that when the School Department came a School District that is when the confusion resulted. Prior to that...

Ms. Lamberton interjected they were a department and they transferred over and brought their leave and seniority and everything else with them because they were a department just like going from Water Works to the Police Department; you bring it with you.

Chairman Shea asked if a person is employed in the School District for 10 years with a very fine record and they have an opportunity to advance within the City structure what you are indicating is if they had just by way of supposition 100 days of sick leave when they transferred over to and we will use the Water Department, they would lose that 100 days of sick leave because of the fact that it is a School District and they are transferring to a City department.

Ms. Lamberton answered that is correct.

Alderman Garrity stated the School Department wanted to be a School District. That is the way they wanted it. They are not a department. We have to be consistent. I believe that they can "cash in" their sick days. My concern too is that if we are going to transfer 120 days over from the District side to the department side is the District going to pay us, no.

Chairman Shea stated just to clarify when they work 10 years and they transfer they lose that. They can't cash that sick leave in can they?

Ms. Lamberton responded not to my knowledge. I believe that in all of the contracts the language for cashing out sick leave is related directly to retirement or perhaps a certain number of years of service like 15 or 20 years.

Alderman Forest stated on this now the transfers that are happening are they being forced to transfer or are they just looking for another job.

Ms. Lamberton responded they are just looking for another job.

Alderman Forest stated well I don't think that I would expect that if I am leaving this job to go to this job that all of my benefits come with me and that is the way I look at this.

Alderman DeVries stated it certainly is the monetary impact that concerns me. In the course of any department's budget whether it is the School District or one of our departments I believe that they try to map their yearly fiscal impact to be prepared. The School District can certainly tell you...we heard last night the number of teachers that they have retiring and the fiscal impact that they are anticipating surrounding that. I would have to envision the rest of the department heads would weigh in with a similar response and I am just not comfortable with going forward with this at this point in time. We can either table this until we hear back from department heads or...why don't I make the motion to receive and file.

Alderman Garrity duly seconded the motion to receive and file. Chairman Shea called for a vote. There being none opposed, the motion carried.

TABLED ITEMS

9. Communication from Michael D. Roche requesting to appear before the committee to explain in detail why the City is not an Equal Employment Opportunity Employer.

On motion of Alderman Forest, duly seconded by Alderman DeVries, it was voted to remove this item from the table.

Alderman DeVries asked should this be non-public session.

Deputy Solicitor Arnold stated if you are going to discuss the dismissal, promotion or compensation of any public employee then that would be appropriate for non-public session or the investigation of any charges against someone.

Chairman Shea asked Ginny do you feel it falls under one of those categories.

Ms. Lamberton answered in my looking over this and in my role in this I didn't see that it meets any of that criteria.

Chairman Shea asked Mr. Michael Roche to come forward.

Deputy Clerk Johnson stated we would note that there was an additional communication from the Human Resources Director that is enclosed in your agenda.

Mr. Michael Roche stated I am an Engineering Technician II at Manchester Water Works. Thank you for allowing me this opportunity. The letter I sent and hopefully everyone has a copy dated October 30 and as Carol just stated the City of Manchester contrary to the job classifications that they post and put in the local

newspaper is not, in fact, an equal employment opportunity employer. I will go through various reasons why it is not, at least at the Manchester Water Works. I had applied for a position or actually two positions on June 2 and after receiving an e-mail wasn't even allowed the courtesy of having an interview when in fact the division head said that would definitely take place. Well it didn't take place nor did the department until after three months when I sent a memo to the division head and also to the Human Resources Director to ask what the status was because I hadn't heard anything officially or unofficially from the Water Department...I hear the Mayor promoting the City and the handbook that the City has talking about its employees. I am going to be starting my 33rd year on May 21 of this year and one of the things that is not happening and I am sure it is not unique in talking to other employees in other City departments but one thing the City should be doing is trying to promote from within. In my particular case at Manchester Water Works had I received one of those two positions that I am qualified for there would have been a domino effect of three or four other employees being promoted. There would have been four or five short-term long-term employees already in the system receiving no less than a 10% raise and that never happened. The management found that and they probably do in other departments as well that it is a heck of a lot easier bringing in a couple of outsiders rather than to have three or four people on probation at any one time and have to give them at least a 10% raise according to Yarger Decker. The job specifications are...I will jump to Ms. Lamberton's letter to you people dated December 26. The third paragraph states that the job of Utility Inspector II requires a Bachelor's Degree. That is erroneous and a falsehood. The job postings and I have the originals here, calls for an Associate's Degree, which is the present minimum requirement of my job as an Engineering Technician II that I have been in since June 16, 1984. The exact same requirements. In the letter are the reasons of Mr. Chabot and the Director as to why the other two people got hired over a long-term employee who has been in five engineering positions since 1971 and who is doing 80% of the primary functions of that job and has been for 10 years. The probationary period...what a lot of people don't realize is that in the City of Manchester there is a probationary period not only for new hires but also for people who are promoted and that is why it is not...just because a person is put in a position to see if they can so to speak cut the mustard if they can't do the job in management's view within that six month period they just revert back to their former job. That wasn't the case here. Another item is age. Possibly age discrimination. The last five people to be in those positions the average age was 34 years old. They range from 23 to 39. The EEOC that your former Chairman told me on December 1 doesn't apply to the City of Manchester and it certainly does, it is a Federal law...I am 51 years of age and I was when I had applied or actually I turned 51 the following month but the EEOC is people who are 40 years and older. That is a concern that I have. Getting back to Ms. Lamberton's letter she states that in our interview my comments about the 10% raise were that I heard it through the grapevine. That is

false. I gave her an actual example. I used the name of a person and I won't use his name but he is a meter setter and within one year of Yarger Decker being implemented in the Year 2000 the person got promoted and the Director met with me alone one-on-one and because the person was going up over 10% the Director felt that it was going to cause a lot of animosity and concern amongst fellow employees and at that time he asked and wanted to have a sidebar and not allow that because he thought it was too costly. That is a true example. That is not hearsay and it is not through the grapevine. That is a one-on-one conversation. Another example or reason is education is a problem. Okay. Under the current administration when Mr. Bowen took over as Director on November 1, 1992 one of his first orders of business was to recreate the number two position of Assistant Director that had been abolished for five and a half years at that point. That went south with the geese on June 1, 1987. Another thing he did was by bringing up his division head, Robert Beaurivage at the time to become his assistant that left an opening at the Water Treatment Plant. The Water Works has three divisions. The Water Treatment Plant and it goes back decades, had what was called a Water Supply Engineer. Dave Kittridge was in that position, the former Director, from 1965 through 1975. Robert Beaurivage was in that position from 1975 through the end of 1992. Because the person they wanted in the position was not an engineer, Mr. Bowen went before this honorable panel and changed the person's job classification and called it a Water Supply Manager because the person did not possess an engineering degree nor does he today to my knowledge. He did have a Bachelor's Degree in Chemistry but for decades that position was a professional engineer. The point I am trying to make is that depending on who it is for...if it is for the little guy you don't have to go by the education. What they are not doing here is taking into consideration like many other positions across the City is that in addition to your education you have to and the Water Works is definitely not doing this but it says "and/or equivalent training or experience" and that was something that the HR Director and I do agree on. She thought I had that and that is why my application stayed at the Water Works contrary to someone else who has applied at Water Works that didn't meet the minimum qualifications. So there was...I mean when you have almost 32 years of experience that should count for something. In moving on here the two people and this is nothing against the two people they hired, they are great people but it is the system that is broken and has to be fixed. Presently one of the individuals is taking an Auto CAD course, that is computerized drafting. I took that class in 1988. The other one just concluded taking the class last fall. He finished in December. Another example is in 1986 one of the employees at the second job worked there for 18 months. Back then this person was a pay grade 14 and this obviously was prior to Yarger Decker and I was a pay grade 20 and the person left. He was a 14 and I was a 20. Back then the difference in pay grades was 5% so if you do the math I was 30% higher. I sit here with 16 ½ more years experience since that person left and he is 7% higher than I am on paper, which brings up probably my last point before I am going to

open it up to questions. The notice that went to all departments and I presume in the newspaper was false with the starting salary range. It is very misleading and there were probably people outside and internally that didn't apply for the position because it stated that the salary range was going to be \$39,145.60 through \$41,516.80. The two individuals hired actually started at \$44,028, which is a difference of \$2,528. So instead of starting at that third range that they had posted that you were supposed to apply for, they started both positions in the fifth step. That is all I have at that time for my presentation. I want to thank you for your time and I would be happy to answer any questions.

Alderman DeVries stated Mike you currently represent the union.

Mr. Roche answered yes I do.

Alderman DeVries asked as Union President.

Mr. Roche answered that is correct.

Alderman DeVries asked how long have you been Union President.

Mr. Roche answered I am in my 23rd year.

Alderman DeVries asked is this the first time that you have applied for any kind of promotion or have been denied any promotion.

Mr. Roche answered this is the first time I applied for anything in 17 years.

Alderman DeVries asked is that usually a harmonious relationship or does that put you in a difficult relationship to be wearing the union hat at the same time you look after your own personal career.

Mr. Roche answered it is very difficult. Actually every day is. You will notice in my speech that I didn't mention union or vendetta or payback or personality but you know if you read between the lines...

Alderman DeVries interjected I understand that. You certainly did not. I guess what intrigues me is that you did ask us to take a look at the Equal Opportunity Employer aspect of this and I certainly caught the age discrimination that you are asking us to take a look at as one that I can draw directly to the equal opportunity but the second one I believe might be the union affiliation that might be part of the equal opportunity that you are finding or that I am at least interpreting might be part of what we need to consider.

Mr. Roche answered it very well could be but I would hope not. That is why I didn't say anything. Believe me it is a combination. It could be the money. It is easier. You know I have already given 10 reasons and I could probably give 10 more but you people want to go home tonight.

Alderman DeVries responded I recognize that that could be another portion that needs to be looked at.

Mr. Roche stated if people are familiar with unions, Union Presidents don't last more than six or eight years. It is unheard of. I have been there twice as long. It doesn't happen. No one else has won at the Supreme Court and taken on the City and won. No one has won more arbitrations or been to the PELRB more but that all comes with the territory. You people are hopefully smart enough to draw your own conclusions here.

Alderman Forest stated I have a copy here of a letter that Ginny Lamberton apparently sent you and sent us. On Page 3, the second paragraph down, it says, "although Mr. Roche had received an e-mail from Guy Chabot on July 2, 2003 stating that he would be interviewed for the second position, in fact he did not have an interview." Now is it normal in your department to get e-mails about job applications?

Mr. Roche responded it is if your name is Mike Roche because they don't want to communicate with you. The person works on the same floor.

Alderman Forest stated is it a policy.

Mr. Roche responded no it is not normal.

Alderman Forest asked what would be the normal process to tell an employee that he wasn't hired.

Mr. Roche answered you would get a letter and it would not have taken an employee to prompt a response from management. That would be the normal course. I would hope that would be the normal action not only in the public sector but also in the private sector in the real world.

Alderman Forest stated the other question I have is do you have the actual...did they post the job with the qualifications.

Mr. Roche answered yes.

Alderman Forest asked could we get a copy of that.

Mr. Roche answered yes.

Alderman Garrity stated I would like to hear from the Water Works Director, Mr. Bowen.

Alderman DeVries stated for reference I had asked Ginny Lamberton to provide us tonight with a copy of the job specifications. If she could pass those down I would find it helpful.

Alderman Garrity stated I think it is important that we get Mr. Bowen's response.

Mr. Thomas Bowen stated I am not going to go back and go over all of the details that were in Ginny's memorandum to you other than to say that this really boils down to two things. One, I will agree that there was a miscommunication here between the division head and Mr. Roche. We are the administration of the Manchester Water Works and ultimately it is our responsibility to make sure that there is communication with the employees so I will take responsibility for that. However, Mr. Roche has been with Water Works for 33 years and primarily the communication between Mr. Roche and his division head and with myself and other members of the administration is through examples like this. Primarily the communication is with letters to the editor, letters to the Aldermen, letters to HR, and letters to the City Solicitor's Office. There is very little attempt made by Mr. Roche to communicate one on one with the department. We have asked over the years in his capacity as an employee and in his capacity as Union President to come in and discuss anything that was on his mind and it just doesn't happen. So I will drop that but with regard to the job itself the primary reason that Mr. Roche was not considered for the job was because in the determination of the division head and ultimately myself he was not qualified for the job. It is as simple as that. There actually was only...when you look at the timeline for when he applied and when the jobs were posted and so forth as explained in Ginny's memo, his application actually did not come in until after the first position had closed and we had already started and ultimately made the decision for the first position. So really there was only one position that he was to be considered for and I think that was the intent of Mr. Chabot's memo to him that he would be considered for the second job. Ultimately there was no communication between Mr. Roche and Mr. Chabot with regard to that position until after it was filled but unequivocally it had nothing to do with anything other than qualifications for the job.

Chairman Shea stated you mentioned there was miscommunication on the part of Mr. Chabot. Is that correct?

Mr. Bowen answered of the division head, yes, in not informing Michael that he either was not going to be considered for the job because of his qualifications or in not interviewing him. That was the mistake. If he told him that he was going to interview him I agree that he should have interviewed him.

Chairman Shea asked because he was not interviewed did that have a factor on him not being ultimately considered.

Mr. Bowen answered no.

Alderman DeVries stated certainly prior to any questions that I might have of you, Tom, I am looking for a little clarification from our HR Director. At the time of the posting of this position it was an Associate's Degree in Civil Technology plus related experience and since then it has been adopted?

Ms. Lamberton responded no. What happened was the position was actually announced...the first position was announced in the early part of the year, I think January, with a Bachelor's Degree, which is what the class specification states. However, the class specification allows for equivalency so let's just say for the heck of it you are required to have a Bachelor's Degree and four years of experience. You could in fact have an Associate's Degree and six years of experience or have eight years of experience and no degree. That is what equivalencies allow for.

Alderman DeVries asked and that is the class specification that you gave me today.

Ms. Lamberton answered correct. That one says the Bachelor's Degree plus experience and then it provides for an equivalency. So we announced the first position and we did not receive much response so I believe I had a staff member go over because we advertised several times and meet with the department to talk about what the duties were. Maybe it wasn't properly classified and things like that.

Alderman DeVries stated just let me back you up because certainly my expertise is not in HR. When I read this and I read a Bachelor's Degree in Civil Engineering and considerable experience in a related construction project or...I understand the or leads to the equivalency but I am not reading this the same as you. If I was reading this I would say that it absolutely requires a Bachelor's Degree and considerable experience and the equivalency is to the considerable experience. Set me straight because I don't read it the same way as you and I don't know...

Ms. Lamberton interjected that is not correct. An equivalency statement allows you to substitute your work experience for education.

Alderman DeVries stated well certainly I am going to defer to you because that is your expertise and it is not mine.

Ms. Lamberton stated what we tried to do in order to get individuals to apply for the position was we applied the equivalency in the advertisement. We said okay if you have an Associate's Degree and more experience we will consider you. This was not the first announcement. This was one of several that went out – the one that Mr. Roche gave you.

Alderman DeVries responded let me ask an additional question of you, Ginny. The Equal Opportunity Employer...how can this Committee weigh in on that?

Ms. Lamberton replied I don't believe it is your role to weigh in on that. There are federal and state laws that deal with discrimination and frankly if Mr. Roche feels that he has been discriminated against based on his age he should file a complaint with those individuals – the Human Rights Commission of the EOC Office in Boston.

Alderman DeVries asked and that would deal with a strict set of guidelines for age discrimination and other.

Ms. Lamberton answered yes. They would send a letter to us asking us to tell our side of the story so to speak and then that would either precipitate a further investigation or not depending upon the responses.

Alderman DeVries asked how do you perceive this Committee should be weighing in on something when we are trying to weigh management rights versus other factors here.

Ms. Lamberton replied as you know you asked me to meet with all of the parties and I did that. To be very candid this individual did not even apply for the position until after it had closed. The position had started being announced in January. His application wasn't completed until June. It wasn't complete so we had to return it to him for him to complete it and then we received it back.

Alderman DeVries asked but that did not preclude him from...

Ms. Lamberton interjected it could have but we didn't do that. We figured we would let it go but if you don't file within the closing period to be a police officer, your application does not move forward. This was an in-house person. We

figured we would give him the benefit of the doubt and let the application go forward but we are not obligated to do that.

Alderman DeVries stated I will defer to other Aldermen because I still do not feel that if there are questions regarding the qualifications for the job that that is something that should be discussed in a public forum. If any Alderman wants to take it in that direction I think we really need to pay attention to that.

Alderman Forest stated I have a comment. I think there were mistakes made here on both sides. I don't want to be micromanaging any department but I believe that Mr. Roche was informed that he would have an interview and then all of the sudden he doesn't and I think that led up to some of what is going on here. I just want to move to receive and file.

Alderman Garrity duly seconded the motion to receive and file. Chairman Shea called for a vote. The motion carried with Alderman DeVries being duly recorded in opposition.

Report of Committee on Community Improvement referring proposal from the Public Works Department regarding a new Facilities Division.

Ms. Lamberton stated the package you have before you is not complete at this time. There is another piece that needs to come to you.

Chairman Shea asked could we request that that particular information be completed so that we can remove this at our next meeting.

Ms. Lamberton answered yes you will have it next week.

There being no further business, on motion of Alderman Garrity, duly seconded by Alderman Forest, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee